

§ 156-10. Right to drain into canal.

Any person desirous of draining into the canal or ditch of another person as an outlet may do so in the manner hereinbefore provided, and in addition to the persons directed to be made parties, all others shall be parties through whose lands, canals, or ditches the water to be drained may pass till it shall have reached the furthest artificial outlet. And the privilege of cutting into such canal or ditch may be granted under the same rules and upon the same conditions and restrictions as are provided in respect to cutting the first canal or ditch: Provided, that no canal or ditch shall be allowed to be cut into another if thereby the safety or utility of the latter shall be impaired or endangered: Provided, further, that if such impairing and danger can be avoided by imposing on the petitioner duties or labor in the enlarging or deepening of such canal or ditch, or otherwise, the same may be done; but no absolute decree for cutting such second canal or ditch shall pass till the duties or work so imposed shall be performed and the effect thereof is seen, so as to enable the commissioners to determine the matter whether such second canal or ditch ought to be allowed or not: Provided, that any party to the proceeding may appeal from the judgment of the court rendered under this section to the superior court of the county, where a trial and determination of all issues raised in the pleadings shall be had as in other cases before a judge and jury. (R.C., c. 40, s. 9; Code, s. 1305; 1887, c. 222; Rev., s. 3990; C.S., s. 5269; 1973, c. 108, s. 94.)